

## EXECUTIVE SESSION

## EXECUTIVE CALENDAR

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session and resume consideration of the following nomination, which the clerk will report.

The legislative clerk read the nomination of Gwynne A. Wilcox, of New York, to be a Member of the National Labor Relations Board for the term of five years expiring August 27, 2023.

The ACTING PRESIDENT pro tempore. The Republican whip.

## THE ECONOMY

Mr. THUNE. Mr. President, not content with their \$1.9 trillion so-called COVID relief bill—paid for entirely with money borrowed from younger generations of Americans and our children and grandchildren—Democrats are readying another partisan spending spree.

Democrats are preparing to consider a \$3.5 trillion tax-and-spending package, this one at least partially paid for by massive tax hikes—tax hikes on small businesses, tax hikes on large businesses, tax hikes on investment, tax hikes on well-off Americans, and tax hikes on the middle class. That is right, tax hikes on the middle class.

Now, President Biden is fond of repeating that he won't raise taxes on anyone making under \$400,000 a year, but the new death tax he is proposing will definitely hit some middle-class Americans. Let's talk about that new tax.

President Biden and congressional Democrats are proposing to eliminate a part of the Tax Code known as "step-up in basis" or referred to often as "stepped-up basis." Under our current Tax Code, when you inherit something from an estate, whether that is stocks or a house, the value of that item is stepped up from its original value to its current market value when you receive it. This prevents you from having to pay capital gains taxes on the amount that your parents' house increased in value when it was owned by your parents.

Let's say you inherit a house that your parents bought for \$100,000, but it is now worth \$500,000. Under current law, when you inherit that house, you are not liable for taxes on the increase in value from the time your parents bought it. The house is transferred to you at its current market value of \$500,000. So if you sell the house right when you inherit it, you will receive the full value of the house instead of having to pay taxes on the amount that the house increased in value while your parents owned it. If you sell that house 2 years later for \$650,000, you are only required to pay taxes on the \$150,000 in value it gained while it was in your possession.

Under the Democrats' proposal, however, capital gains taxes would automatically be triggered upon death if

the increase in value of an individual's estate has exceeded a certain amount. So, if your parents' house or the family farm or other assets have increased in value more than Democrats deem desirable, you would now owe capital gains taxes on the amount of that increase immediately after your parents' death minus the amount Democrats choose to exempt.

There are plenty of middle-class Americans around this country who would be paying this tax. You wouldn't be protected just because you make under \$400,000 a year.

Now, the President has tried to get around this by arguing that Democrats would be taxing dead individuals, not living ones. So if your parents die and pass on their estate, the argument suggests the tax that you have to send to the Federal Government isn't a tax on you but on your parents. Well, who does he think he is fooling? Who is going to experience the loss of that money—you or your parents? Who is going to be writing the check to the Federal Government? You will.

Let's imagine that a woman's parents die and leave her their estate, and 2 weeks later, a thief comes in and steals part of that inheritance. Who are people going to think was robbed—the daughter or her deceased parents? I think all of us would recognize that it was the daughter who was robbed. The same thing applies to Democrats' proposed new death tax. It is not dead Americans who would be writing checks to the Federal Government. Sure, the tax is owed by the decedent or transferor, but for all practical purposes, the costs would be borne by their descendants.

The truth is, even if we accept the argument that Democrats' new death tax is a tax on deceased Americans and not their descendants, this tax would still hit some middle-class Americans. After all, it is perfectly possible to work hard your whole life and invest wisely and see your estate appreciate in value by more than \$1.25 million—the proposed individual exemption level—over the course of your life without ever exiting the middle class. We are not talking about confining this taxation to individuals with a yearly income of \$1.25 million; we are talking about the increase in value on an estate over a person's lifetime. There is no question that this tax would fall on the estates of some thoroughly middle-class Americans.

The problems with this new death tax aren't limited to the fact that it breaks President Biden's pledge not to raise taxes on individuals making under \$400,000 a year. There are a lot of additional problems, starting with the administration and compliance costs of this tax.

Congress actually passed a similar proposal in the 1970s but repealed it before it went into effect because it was so complicated and unworkable. That is right. Congress repealed the proposal before it was even implemented be-

cause it was clear that collecting this tax was going to be too complicated.

Forty-odd years later, collecting this tax would still be an enormously complicated matter. It would put incredible new recordkeeping requirements on a lot of American families, and it would strain the capabilities of the IRS, although those 87,000 new IRS employees President Biden wants to add to the Agency would certainly increase the available manpower to levy new tax hikes.

Plus, I can only imagine the litigation that would arise over the valuation of assets. What happens if the IRS disagrees with the estimate of the value of your family farm or business? Do you have to take the IRS to court? Will the IRS take you to court?

In addition, there is a very real danger that Americans would be paying taxes on nonexistent gains, in part due to inflation and the natural expansion of the economy. Recent economic reports are raising concerns that, with the administration's robust new entitlement spending, Americans could be shouldering the burdens of significant inflation now and long into the future. But Democrats' new death tax would not account for inflation on an asset, like a family-owned farm or business, which means Americans could be paying a lot of money in taxes on nonexistent gains.

Finally, I want to talk about the threat this tax poses to family farms and businesses.

Now, Democrats claim that they will defer this tax for family farms and businesses as long as a member of the family inherits and then runs the farm or business, but it is completely unclear what this will look like in practice. Will "family members" refer only to sons and daughters? What if a stepson wants to take over the farm, or a niece? Will the inheritors still be subject to the tax then, which could result in their having to sell that farm the niece wants to run? What happens if two or more of the children want to run the farm? There are a lot of unanswered questions.

Of course, it is important to remember that Democrats will only be deferring the tax. So if the time ever comes when the family wants to sell the farm—maybe it is getting hard to run and a neighboring family is willing to buy it—the family would have to pay those taxes that were deferred when their mom or dad died. If that family farm has been handed down through a few generations already, it is completely possible that paying those taxes would consume a big part of that legacy.

There is a reason 13 House Democrats sent a letter to House Democratic leaders expressing their concern about the proposed step-up in basis repeal. It is because this tax would pose a real threat to the continued existence of family farms and businesses. It is the same reason that those in agriculture and small business communities oppose this new death tax.